



INTERIOR BOARD OF INDIAN APPEALS

Todd R. Kirkie v. Acting Aberdeen Area Director, Bureau of Indian Affairs

18 IBIA 6 (10/03/1989)

Denying reconsideration of:
17 IBIA 275



United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS
INTERIOR BOARD OF INDIAN APPEALS
4015 WILSON BOULEVARD
ARLINGTON, VA 22203

TODD R. KIRKIE,
Appellant

v.

ACTING ABERDEEN AREA DIRECTOR,
BUREAU OF INDIAN AFFAIRS,
Appellee

: Order Denying Reconsideration
:
:
:
: Docket No. IBIA 89-71-A
:
:
: October 3, 1989

On October 2, 1989, the Board of Indian Appeals (Board) received a letter from appellant's father objecting to its September 13, 1989, decision in the above case. See 17 IBIA 275. The letter contends that the Board's decision discriminates against appellant because he is an urban Indian, suggests that the Department of the Interior wants to keep Native Americans on the reservation and unproductive, and argues that the regulations restricting BIA vocational training grants to Indians living "on or near" the reservation should be changed or waived.

The Board has determined that, even though this letter was written by appellant's father rather than by appellant, it will treat it as a petition for reconsideration under 43 CFR 4.315.

All of the arguments raised ultimately question the Department's regulations governing the vocational training program. These regulations were written to effectuate the legislation establishing this program and the Supreme Court's decision in Morton v. Ruiz, 415 U.S. 199 (1974). The Board does not have authority to declare duly promulgated Departmental regulations invalid or to waive their applicability. See, e.g., Utu Utu Gwaitu Paiute Tribe of the Benton Paiute Reservation v. Sacramento Area Director, 17 IBIA 141 (1989); Northern Natural Gas v. Minneapolis Area Director, 15 IBIA 124 (1987); Sohappy v. Acting Deputy Assistant Secretary--Indian Affairs (Operations), 14 IBIA 100, 93 I.D. 176 (1986); Zarr v. Acting Deputy Director, Office of Indian Education Programs, 11 IBIA 174, 90 I.D. 172 (1983).

Therefore, in accordance with the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 CFR 4.1 this petition for reconsideration of the Board's September 13, 1989, decision is denied.

//original signed

Kathryn A. Lynn
Chief Administrative Judge

//original signed

Anita Vogt
Administrative Judge